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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/682,275

10/08/2003

Daniel J. Zierath

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06/23/2008

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EXAMINER

LEADER, WILLIAM T

ART UNIT

PAPER NUMBER

1795

MAIL DATE

DELIVERY MODE

06/23/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

DETAILED ACTION

1. Receipt of the papers filed on March 19, 2008, is acknowledged. Claim 7 has been canceled. Claims 1-5 and 9 are pending.
2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.
4. Claims 1-5 and 9 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.
5. Applicant has amended claim 1 to recite that the leveler concentration is in the range of 9 ml/l - 12 ml/l. Basis for this range in the specification as filed is not apparent. At page 4 of the Remarks, applicant states that the amendment is supported by the specification at paragraph [0025] and claim 7. Paragraph [0025] of the specification discloses determination of the chloride concentration. Applicant

may be referring to paragraph [0026] which discloses a level concentration of 8-12 ml/l. Claim 7 recited a leveler concentration of 8 ml/l - 12 ml/l. The range now recited in claim 1 is a different range than that disclosed in paragraph [0026] or recited in claim 7. Applicant has not pointed to any basis in the specification for a range with a lower endpoint of 9 ml/l.

Claim Rejections - 35 USC § 103

6. Claims 1-5 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Reid et al (US 2001/0015321) in view of the Lowenheim text *Electroplating*, Basol (6,921,551) and Mayer et al (6,946,065) for the reasons of record.

7. As noted above, applicant has amended claim 1 to recite that the leveler concentration is in the range of 9 ml/l - 12 ml/l. Reid et al disclose a leveler concentration of 0.5 ml/l – 8 ml/l. The new range of applicant is not considered to patentably distinguish over the range recited by Reid et al. It has been held that a *prima facie* case of obviousness exists where the claimed ranges and prior art ranges do not overlap but are close enough that one skill in the art would have expected them to have the same properties. *Titanium Metals Corp. of America v. Banner*, 227 USPQ 773 (Fed. Cir. 1985). See MPEP 2144.05.

8. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to **WILLIAM T. LEADER** whose telephone number is (571) 272-1245. The examiner can normally be reached on Mondays-Thursdays and alternate Fridays, 7:30-4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Susy Tsang-Foster can be reached on 571-272-1293. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

William Leader
June 17, 2008

/Susy Tsang-Foster/
Supervisory Patent Examiner, Art Unit 1795